

CHAPTER ONE GENERAL PROVISIONS

SECTION I PURPOSE AND AUTHORITY

A. PURPOSE

- 1. ARKANSAS NURSE PRACTICE ACT** - Requires that any person who practices or offers to practice professional nursing, advanced practice nursing, registered nurse practitioner nursing, practical nursing or psychiatric technician nursing for compensation be licensed and submit evidence that he/she is qualified to so practice and shall be licensed as hereinafter provided.
- 2. ARKANSAS STATE BOARD OF NURSING** - Established by the Arkansas Nurse Practice Act for the implementation of the statute by carrying on the licensing, disciplinary and educational functions for professional, advanced practice, registered nurse practitioner, practical and psychiatric technician nursing.

- B. LEGAL AUTHORITY** - The authority of the Board is contained in the Arkansas Code of 1987 Annotated and 1995 Supplement, Sections 17-87-101 through 17-87-402 (Nurse Practice Act).

SECTION II THE PRACTICE OF NURSING

A. THE PRACTICE OF PROFESSIONAL NURSING

The performance for compensation of any acts involving the observation, care and counsel of the ill, injured or infirm; the maintenance of health or prevention of illness of others; the supervision and teaching of other personnel; the delegation of certain nursing practices to other personnel as set forth in regulations established by the board; or the administration of medications and treatments as prescribed by practitioners authorized to prescribe and treat according to state law where such acts require substantial specialized judgment and skill based on knowledge and application of the principles of biological, physical and social sciences.

B. THE PRACTICE OF ADVANCED PRACTICE NURSING

The practice of advanced practice nursing means the delivery of health care services for compensation by professional nurses who have gained additional knowledge and skills through successful completion of an organized program of nursing education that certifies nurses for advanced practice roles as advanced nurse practitioners, certified registered nurse anesthetists, certified nurse midwives and clinical nurse specialists.

1. **ADVANCED NURSE PRACTITIONER** – The practice of advanced nurse practitioner nursing means the performance for compensation of nursing skills by a registered nurse who, as demonstrated by national certification, has advanced knowledge and practice skill in the delivery of nursing services.
2. **CERTIFIED REGISTERED NURSE ANESTHETIST** – The practice of certified registered nurse anesthesia means the performance for compensation of advanced nursing skills relevant to the administration of anesthetics under the supervision of, but not necessarily in the presence of, a licensed physician, licensed dentist, or other person lawfully entitled to order anesthesia.
3. **CERTIFIED NURSE MIDWIFE** – The practice of nurse midwifery means the performance for compensation of nursing skills relevant to the management of women's health care, focusing on pregnancy, childbirth, the postpartum period, care of the newborn, family planning and gynecological needs of women, within a health care system that provides for consultation, collaborative management or referral as indicated by the health status of the client.
4. **CLINICAL NURSE SPECIALIST** – The practice of clinical nurse specialist nursing means the performance for compensation of nursing skills by a registered nurse who, through study and supervised practice at the graduate level and as evidenced by national certification, has advanced knowledge and practice skills in a specialized area of nursing practice.

C. THE PRACTICE OF REGISTERED NURSE PRACTITIONER NURSING

The delivery of health care services for compensation in collaboration with and under the direction of a licensed physician or under the direction of protocols developed with a licensed physician. Registered nurse practitioners shall be authorized to engage in activities as recognized by the nursing profession and as authorized by the Board. Nothing in this subdivision is to be deemed to limit a registered nurse practitioner from engaging in those activities which normally constitute the practice of nursing, or those which may be performed by persons without the necessity of the license to practice medicine.

D. THE PRACTICE OF PRACTICAL NURSING – the performance for compensation of acts involving the care of the ill, injured, or infirm or the delegation of certain nursing practices to other personnel as set forth in regulations established by the board; under the direction of a registered professional nurse, an advanced practice nurse, a licensed physician or a licensed dentist, which acts do not require the substantial specialized skill, judgment, and knowledge required in professional nursing.

E. THE PRACTICE OF PSYCHIATRIC TECHNICIAN NURSING – The performance for compensation of acts involving the care of the physically and mentally ill, retarded, injured, or infirm or the delegation of certain nursing practices to other personnel as set forth in regulations established

by the board, and the carrying out of medical orders under the direction of a registered professional nurse, an advanced practice nurse, a licensed physician or a licensed dentist, where such activities do not require the substantial specialized skill, judgment, and knowledge required in professional nursing.

SECTION III IDENTIFICATION INSIGNIA

- A. Any person who holds a license to practice nursing in this state shall use the legal title or the abbreviation as set forth in Arkansas Code Annotated Section 17-87-101, et. seq. No other person shall assume any other name, title or abbreviation or any words, letters, signs, or devices that would cause a reasonable person to believe the user is licensed to practice nursing.
- B. Any person licensed to practice nursing shall wear an insignia to identify himself by his name and appropriate legal title or abbreviation during times when such person is providing health care to the public for compensation.
- C. The insignia shall be prominently displayed and clearly legible such that the person receiving care may readily identify the type of nursing personnel providing such care.

SECTION IV DEFINITION OF TERMS

ACTIVITIES OF DAILY LIVING — Those self-care activities which must be accomplished each day in order for the client to care for his own needs and participate in society.

ADVANCED PRACTICE NURSE CATEGORIES — Advanced nurse practitioner, certified registered nurse anesthetist, certified nurse midwife and clinical nurse specialist.

AGENCY, CLINICAL FACILITY — A facility outside the framework of the program which provides educational experiences for the student.

APPROVAL, TYPES:

PREREQUISITE — Permission to proceed in establishing a program of nursing.

INITIAL — Granted to the program when the curriculum is developed and readiness to admit students is demonstrated.

FULL — Granted to the nursing program which provides evidence that

minimum requirements are met.

CONTINUED FULL – Granted to the nursing program which continues to meet the minimum requirements.

CONDITIONAL – Serves to warn the nursing program of deviations from mandatory requirements affecting the quality of the school.

PROBATIONAL APPROVAL – A status designated to a nursing education program which does not meet the minimum NCLEX passing rate established by the Board.

APPROVED/ACCREDITED – An agency or institution which has met the requirements established by a recognized national, regional, state or professional body.

BOARD – The Arkansas State Board of Nursing.

BOARD REPRESENTATIVE – A person appointed, hired or otherwise authorized by the Board to carry out its functions.

CHAIRPERSON/DIRECTOR – The person responsible for the specific educational unit in nursing, regardless of the official title in the institution.

COLLABORATING PHYSICIAN – A physician, licensed under the Arkansas Medical Practices Act, § 17-93-201 et seq., who has a practice comparable in scope, specialty or expertise to that of the advanced practice nurse or registered nurse practitioner.

COLLABORATIVE PRACTICE AGREEMENT – Document setting out how an advanced practice nurse and physician intend to cooperate in the delivery of client care.

CONSULTING PHYSICIAN – A physician licensed by the Arkansas Medical Practices Act who has obstetric privileges in a hospital.

CONTROLLED SUBSTANCE – Drug substance or immediate precursor in Schedules I-V.

CREDENTIAL – A license, certificate or other evidence of qualifications.

DELEGATION – Entrusting the performance of a selected nursing task to an individual who is qualified, competent and able to perform such tasks. The nurse retains the accountability for the total nursing care of the individual.

DOCUMENTATION – Written proof or evidence to substantiate factual claims or statements satisfactory to the Board.

DRUG SAMPLE — A unit of a legend drug which is distributed to a practitioner by a manufacturer or a manufacturer's representative at no charge, is not intended to be sold, and is intended to promote the sale of the drug.

EMERGENCY CARE — Unanticipated care provided to a person who is unconscious, ill or injured, when the circumstances require prompt decisions and actions and when the necessity of immediate care is so apparent that any delay would seriously worsen the physical condition or endanger the life of the person.

LEGEND DRUG — A drug limited by Section 503,(b)(1) of the Federal Food, Drug, and Cosmetic Act to being dispensed by or upon a practitioner's prescription.

MAY — Indicates permission.

OBSERVATIONAL EXPERIENCE — One in which the nursing student provides no nursing care.

OFF CAMPUS/SATELLITE — A site distant from the originating school offering the same program in nursing as that being offered at the originating school.

PERSONAL CARE — Assistance with activities of daily living not requiring a medical prescription.

PHILOSOPHY/MISSION — Includes and identifies the beliefs accepted by the nursing faculty and controlling institution.

PRECEPTOR — A currently licensed nurse or physician, meeting the requirements of these regulations, who serves as a facilitator of student learning in a practice setting.

PRECEPTORSHIP — Practice under the supervision of a qualified preceptor in the care of consumers of health services while a student in a Board approved program.

PRESCRIPTIVE AUTHORITY — Authorization, given by the Board, for an advanced practice nurse who meets established requirements to prescribe. Prescriptive authority for controlled substances shall only extend to drugs listed in Schedules III through V.

PROGRAM — The total educational curriculum in nursing, including theoretical and clinical components.

ASSOCIATE DEGREE PROGRAM — A professional nursing program leading to an associate degree with a major in nursing.

BACCALAUREATE DEGREE PROGRAM — A professional nursing program leading to a baccalaureate degree with a major in nursing.

DIPLOMA PROGRAM — A professional nursing program leading to a diploma with a major in nursing.

PRACTICAL NURSING PROGRAM — A nursing program leading to a certificate in practical nursing.

PSYCHIATRIC TECHNICIAN NURSING PROGRAM — A nursing program leading to a certificate in psychiatric technician nursing.

PROTOCOL — A written statement which delineates agreed-upon approaches in client care and management.

SHALL, WILL, MUST — Indicates a mandatory requirement.

SHOULD — Indicates a recommendation.

SPONSORING/CONTROLLING INSTITUTION — The organization responsible for the administration and continuing operation of the nursing education program.

SURVEY — A visit to determine compliance with minimum requirements.

THERAPEUTIC DEVICE — An instrument or apparatus, requiring a prescription, that is intended for use in diagnosis or treatment, and in the prevention of disease or maintenance or restoration of health.

TRANSMITTING — Relaying an order for a medication, treatment or therapeutic device.

UNDER THE DIRECTION OF A LICENSED PHYSICIAN — The performance of specific acts and procedures which have been authorized by a licensed physician and which may be performed outside the presence of the physician under conditions where a physician is readily available for consultation.

UNENCUMBERED LICENSE — Free of disciplinary limitations or pending action.

SECTION V GENERAL MATTERS

A. OFFICE AND HOURS

The office of the Board is in Little Rock, Arkansas. The office shall be open during business hours each day, Saturday, Sunday and holidays excepted.

B. EXAMINATION, INQUIRY OR INVESTIGATION

The Board may, through one or more of its members, or staff especially authorized, conduct at its office in Little Rock, Arkansas, or in any part of the state, any examination, inquiry or investigation, hearing or other proceeding necessary to perform its duties and functions. The executive director shall have custody of the seal and official records and shall be responsible for the maintenance and custody of the files and records of the Board, including the credentials for all Arkansas licensed nurses, transcripts of testimony and exhibits, the minutes of all actions taken by the Board and all of its findings, determinations, reports, opinions, orders, rules, regulations, and approved forms.

C. AUTHENTICATION

All notices and other actions of the Board shall be authenticated or signed by the president, secretary, or such other person as may be authorized by the Board.

D. NOTICE

Upon order of the Board, the president, secretary, or executive director shall issue all notices of hearings and other process as may be directed by the Board.

E. POWERS OF BOARD

The Board is authorized to:

1. Promulgate whatever regulations it deems necessary for the implementation of the Act;
2. Cause the prosecution of persons violating the Act;
3. Keep a record of all its proceedings;
4. Make an annual report to the Governor;
5. Employ personnel necessary for carrying out its functions;
6. Study, review, develop and recommend role levels of technical classes of nursing service and practice to state and federal health agencies and to public and private administrative bodies;
7. Fix the time for holding its regular meetings;
8. Prescribe minimum standards and approve curricula for educational programs preparing persons for licensure as registered nurses,

- advanced practice nurses, registered nurse practitioners, licensed practical nurses, and licensed psychiatric technician nurses;
9. Provide for surveys of such programs at such times as it deems necessary or at the request of the schools;
 10. Approve programs that meet the requirements of the Act;
 11. Deny or withdraw approval from educational programs for failure to meet prescribed standards;
 12. Examine, license and renew the licenses of duly qualified applicants for professional nursing, practical nursing and psychiatric technician nursing;
 13. License and renew the licenses of duly qualified applicants for advanced practice nursing and registered nurse practitioner nursing;
 14. Issue certificates of prescriptive authority; and
 15. Conduct disciplinary proceedings as provided for in the Act.

F. EXECUTIVE DIRECTOR

The executive director of the Board shall be a registered nurse and meet the qualifications required by the Board.

G. BOARD FUNDS AND FEES

1. The Board shall establish and collect fees for services relating to examination, licensing, endorsement, certification for prescriptive authority, temporary permits, license renewal and other reasonable services as determined by the Board.
2. All funds received by the Board shall be deposited in the State Treasury to the credit of the Board.
3. Fees paid to the Board may be in the form of cash, cashier checks, or money orders. Personal checks for initial licensure are accepted from in-state residents only.
4. Fees paid to the Board are processing fees and are not refundable.

H. REVIEW OF REGULATIONS

No regulations promulgated hereafter by the Board shall be effective until reviewed by the Arkansas Legislative Council and the Joint Interim Committee on Public Health, Welfare and Labor of the Arkansas General Assembly.

I. RECORDS

1. Record Maintenance
The executive director shall enter, in permanent form, credentials of all nurses, records of official transactions and proceedings, and keep such records in safekeeping.
2. Tapes
Meetings may be taped by a secretary as necessary for purposes of minute taking. Tapes may be erased after corresponding

minutes have been approved.

3. Destruction

The executive director may destroy or dispose of records in the office in accord with applicable law.

4. Certified Copies

Upon written request and payment of a fee, the executive director shall provide to any nurse holding Arkansas licensure a certified copy of any of her/his records on file in the Board office.

5. Public Inspection

Records shall be open to public inspection except as may be specifically exempted by statute.

6. Request for Copies of Rules

Copies of rules of the Board will be furnished free of charge to any official of a government agency requesting them in the performance of his/her duties.

J. EXAMINATION REVIEW

A registered nurse, practical nurse or psychiatric technician nurse candidate who has failed the licensure examination may review his/her examination and/or challenge examination items according to the policies and procedures of the test development vendor.

K. NURSING STUDENT LOAN PROGRAM

Any Arkansas resident who is enrolled in, or has been accepted for admission to, an approved school of nursing in this state or in a nationally accredited school outside the state, in a course of study leading to qualification as a registered nurse or licensed practical nurse shall be eligible to make application to the Arkansas State Board of Nursing for a loan according to guidelines established by the Board.

Effective August 1, 2003

CHAPTER TWO

LICENSURE: R.N., L.P.N., AND L.P.T.N.

SECTION I

QUALIFICATIONS

- A.** Good moral character.
- B.** Completion of an approved high school course of study or the equivalent as determined by the appropriate educational agency.
- C.** Completion of the required approved nursing education program. (LPN and LPTN requirements may be waived if applicant is determined to be otherwise qualified.)
- D.** The Arkansas State Board of Nursing (ASBN) may refuse to admit to the examination any candidate and refuse to issue a license, certificate or registration to any applicant if the license, practice privilege, certificate or registration of such person has been revoked or suspended or placed on probation and not reinstated by the jurisdiction which took such action.
- E.** Effective January 1, 2000, no person shall be eligible to receive or hold a license issued by the board if that person has pleaded guilty or nolo contendere to, or been found guilty by any court in the State of Arkansas, or of any similar offense by a court in another state, or of any similar offense by a federal court of any offense listed in ACA §17-87-312.

SECTION II

EXAMINATION

A. ELIGIBILITY

The applicant shall meet the licensure requirements of the Board.

B. APPLICATION

- 1. Applications for examination shall be completed, certified and filed with the Board prior to the examination.
- 2. One 2x3-inch photograph, signed by the applicant, shall be filed with the application.
- 3. Examination applications shall be notarized. The application shall not be acceptable if the director or chairman of an educational program has certified the applicant prior to date of completion.
- 4. Applicants for licensure by examination shall not be deemed eligible to take the licensure examination until such time that the results of the state and federal criminal background checks have

been received.

C. FEE

1. The examination fee shall accompany the application.
2. The examination fee (first time or retake) is not refundable.
3. The fees for the state and federal criminal background checks are the responsibility of the applicant and shall be submitted to the Arkansas State Police with the application for same.
4. The fees are determined by the Arkansas State Police and the FBI and are not refundable.

D. PASSING SCORE

The passing score on the licensure examination shall be determined by the Board.

E. FAILING SCORE AND ELIGIBILITY TO RETAKE THE EXAMINATION

1. Any applicant whose score falls below the passing score shall fail the examination.
2. Persons failing the examination will be responsible for preparing to retake the examination.
3. The frequency and number of retests by unsuccessful candidates shall be determined by the Board.
4. Applicants retaking the examination shall have state and federal criminal background checks within the past twelve months on file with the Board.

F. RESULTS

1. Examination results shall not be released until a copy of the applicant's transcript is received from the school.
2. Examination results shall be mailed to all applicants and to their respective schools.

G. FOREIGN EDUCATED NURSES

1. The applicant must present evidence of:
 - a. Graduation from an approved or accredited school of nursing. The Board may waive this requirement for LPN and LPTN applicants provided they are otherwise qualified.
 - b. Licensure or proof of eligibility for licensure in the country of graduation.
 - c. Theory and practice in medical, surgical, pediatric, obstetric and psychiatric nursing which is substantially similar in length and content to that in equivalent Arkansas Board approved nursing programs at the time of application as verified by a credentials review agency.

- d. State and federal criminal background checks within the past twelve months on file with the Board.
- e. Credentials review that includes verification of the candidate's education, training, experience and licensure with respect to the statutory and regulatory requirements for the nursing profession, as well as oral and written competence in English.
2. L.P.N. applicants must have evidence of all the foregoing with the exception of psychiatric nursing, in which theory only is required.
3. Transcripts and certificates which are not in English must be accompanied by a certified translation.
4. Applicants shall be required to take such licensure examinations as required of Arkansas Board approved nursing programs.

H. EQUIVALENCIES

1. LPN to LPTN: Candidates holding LPN licensure may, with the approval of the Board's representative, take the requisite psychiatric nursing courses in a Board approved LPTN program to meet the Board's requirements for LPTN licensure by examination at the time of application.
2. LPTN to LPN: Candidates holding LPTN licensure who completed Arkansas Board approved LPTN programs after March 18, 1980, may be admitted to the LPN licensure examination provided they are otherwise qualified.
3. RN examination failures: Graduates of Board approved R.N. programs, upon submission of an official transcript directly from the school, and a copy of their R.N. examination failure results, may be admitted to the LPN licensure examination provided they are otherwise qualified.
4. Portion of RN Program: Candidates who have completed equivalent courses in a state approved program of nursing may be admitted to the LPN licensure examination provided they are otherwise qualified. Evidence must be provided verifying successful completion of classroom instruction and clinical practice substantially similar to the minimum requirements for practical nursing programs.

SECTION III INTERSTATE NURSE LICENSURE COMPACT

A. DEFINITIONS OF TERMS IN THE COMPACT

For the purpose of the Compact:

1. "Board" means party state's regulatory body responsible for issuing nurse licenses.
2. "Information system" means the coordinated licensure information

- system.
3. "Primary state of residence" means the state of a person's declared fixed permanent and principal home for legal purposes; domicile.
 4. "Public" means any individual or entity other than designated staff or representatives of party state Boards or the National Council of State Boards of Nursing, Inc.
 5. "Alternative program" means a voluntary, non-disciplinary monitoring program approved by a nurse licensing board.
 6. "Coordinated Licensure Information System" means an integrated process for collecting, storing, and sharing information on nurse licensure and enforcement activities related to nurse licensure laws, which is administered by a non-profit organization composed of state nurse licensing boards.
 7. "Home state" means the party state which is the nurse's primary state of residence.
 8. "Multistate licensure privilege" means current, official authority from a remote state permitting the practice of nursing as either a registered nurse or a licensed practical/vocational nurse in such party state.
 9. "Nurse" means a registered nurse or licensed practical nurse, as those terms are defined by each party's state practice laws.
 10. "Party state" means any state that has adopted this Compact.
 11. "Remote state" means a party state, other than the home state,
 - (a) where the patient is located at the time nursing care is provided, or,
 - (b) in the case of the practice of nursing not involving a patient, in such party state where the recipient of nursing practice is located.
 12. "Current significant investigative information" means:
 - (a) investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or
 - (b) investigative information that indicates that the nurse represents an immediate threat to public health and safety regardless of whether the nurse has been notified and had an opportunity to respond.
 13. Licensed Practical Nurse or Licensed Vocational Nurse means a person who has been licensed as an LPN or LVN by a party state licensing board.

Other terms used in these rules are to be defined as in the Interstate Compact.

B. ISSUANCE OF A LICENSE BY A COMPACT PARTY STATE

For the purpose of this Compact:

1. A nurse applying for a license in a home party state shall produce evidence of the nurses' primary state of residence. Such evidence shall include a declaration signed by the licensee. Further evidence that may be requested may include but is not limited to:
 - a. Driver's license with a home address;
 - b. Voter registration card displaying a home address; or
 - c. Federal income tax return declaring the primary state of residence.
2. A nurse changing primary state of residence, from one party state to another party state, may continue to practice under the former home state license and multistate licensure privilege during the processing of the nurse's licensure application in the new home state for a period not to exceed thirty (30) days.
3. The licensure application in the new home state of a nurse under pending investigation by the former home state shall be held in abeyance and the thirty (30) day period in section B.2. shall be stayed until resolution of the pending investigation.
4. The former home state license shall no longer be valid upon the issuance of a new home state license.
5. If a decision is made by the new home state denying licensure, the new home state shall notify the former home state within ten (10) business days and the former home state may take action in accordance with that state's laws and rules.
6. Party states shall recognize and honor either the LPN or LVN title used for Licensed Practical Nurses and Licensed Vocational Nurses, respectively.

C. LIMITATIONS ON MULTISTATE LICENSURE PRIVILEGE

Home state Boards shall include in all licensure disciplinary orders and/or agreements that limit practice and/or require monitoring the requirement that the licensee subject to said order and/or agreement will agree to limit the licensee's practice to the home state during the pendency of the disciplinary order and/or agreement. This requirement may, in the alternative, allow the nurse to practice in other party states with prior written authorization from both the home state and such other party state Boards.

D. INFORMATION SYSTEM

1. Levels of access
 - a. The public shall have access to nurse licensure information limited to:
 - (1) the nurse's name,
 - (2) jurisdiction(s) of licensure,
 - (3) license expiration date(s),
 - (4) licensure classification(s) and status(es),
 - (5) public emergency and final disciplinary actions, as

- defined by contributing state authority, and
- (6) the status of multistate licensure privileges.
- b. Non-party state Boards shall have access to all Information System data except current significant investigative information and other information as limited by contributing party state authority.
- c. Party state Boards shall have access to all Information System data contributed by the party states and other information as limited by contributing non-party state authority.
- 2. The licensee may request in writing to the home state Board to review the data relating to the licensee in the Information System. In the event a licensee asserts that any data relating to him or her is inaccurate, the burden of proof shall be upon the licensee to provide evidence that substantiates such claim. The Board shall verify and within ten (10) business days correct inaccurate data to the Information System.
- 3. The Board shall report to the Information System within ten (10) business days:
 - a. Disciplinary action, agreement or order requiring participation in alternative programs or which limit practice or require monitoring (except agreements and orders relating to participation in alternative programs required to remain nonpublic by contributing state authority),
 - b. Dismissal of complaint, and
 - c. Changes in status of disciplinary action, or licensure encumbrance.
- 4. Current significant investigative information shall be deleted from the Information System within ten (10) business days upon report of disciplinary action, agreement or order requiring participation in alternative programs or agreements which limit practice or require monitoring or dismissal of a complaint.
- 5. Changes to licensure information in the Information System shall be completed within ten (10) business days upon notification by a Board.

SECTION IV ENDORSEMENT

A. ELIGIBILITY

- 1. An applicant for licensure by endorsement must meet the requirements of the Board at the time of graduation.
- 2. An applicant licensed in another state after January 1950 must have taken a state board licensing examination and achieved a passing score.
- 3. LPTN applicants will be accepted from California and Kansas only.

B. EQUIVALENCIES

1. R.N. examination failures: Graduates of Board approved RN programs, holding LPN licensure by examination in other jurisdictions, may be endorsed provided they are otherwise qualified.
2. Canadian Registered Nurses licensed by NLN State Board Test Pool Examination in the following provinces during the years indicated: Alberta, 1952-1970; British Columbia, 1949-1970; Manitoba, 1955-1970; Newfoundland, 1961-1970; Nova Scotia, 1955-1970; Prince Edward Island, 1956-1970; Quebec (English language), 1959-1970; and Saskatchewan, 1956-1970. These applicants may be endorsed provided they are otherwise qualified.
3. Portion of RN Program: candidates who have completed equivalent courses in a state approved program of nursing may be endorsed provided they are otherwise qualified. Evidence must be provided verifying successful completion of classroom instruction and clinical practice substantially similar to the minimum requirements for practical nursing programs.

C. APPLICATION

1. Applications must be completed, certified, accompanied by a 2x3-inch photograph signed by the applicant, and filed with the Board.
2. Endorsement certification will be accepted from the state of original licensure only.
3. Applicants for licensure by endorsement shall not be issued a permanent license to practice until such time that the results of the state and federal criminal background checks have been received.

D. FOREIGN EDUCATED NURSES PRACTICING IN ANOTHER JURISDICTION

1. In addition to documentation noted in Section IV.C. above, the applicant must present evidence, acceptable to the board, of successful practice for at least three years in the state of licensure immediately prior to request for endorsement.
2. The license may be issued following review of the applicant's file, which shall include verification of the candidate's competence in English.

E. FEE

1. The endorsement fee must accompany the application.
2. The fees for the state and federal criminal background checks are the responsibility of the applicant and shall be submitted to the Arkansas State Police with the application for same.
3. The fees are not refundable.

SECTION V
CRIMINAL BACKGROUND CHECK

- A.** No application for issuance of an initial license will be considered without state and federal criminal background checks by the Arkansas State Police and the Federal Bureau of Investigation.
- B.** Each applicant shall sign a release of information on the criminal background check application and licensure applications and shall be solely responsible for the payment of any fees associated with the state and federal criminal background checks to the Arkansas State Police.
- C.** Upon completion of the state and federal criminal background checks, the Identification Bureau of the Arkansas State Police shall forward all information obtained concerning the applicant in the commission of any offense listed in ACA §17-87-312.
- D.** The state and federal criminal background checks conducted by the Arkansas State Police and the Federal Bureau of Investigation shall have been completed no earlier than twelve (12) months prior to the application for an initial license issued by the ASBN and at any other time thereafter that the Board deems necessary.
- E.** The ASBN shall not issue a permanent license until the state and federal criminal background checks conducted by the Arkansas State Police and the Federal Bureau of Investigation have been completed.
- F.** A request to seek waiver of the denial of licensure pursuant to the provisions of ACA §17-87-312 may be made to the ASBN by:
 - (1) the affected applicant for licensure, or
 - (2) the person holding a license subject to revocation.
- G.** The request for a waiver shall be made in writing to the Executive Director or the designee within thirty (30) calendar days after notification of denial of a license. The request for waiver shall include, but not be limited to the following:
 - (1) certified copy of court records indicating grounds for conviction,
 - (2) any other pertinent documentation to indicate surrounding circumstances.
- H.** If an individual notifies ASBN in writing that he/she desires a hearing regarding their request for a waiver, the ASBN will schedule the individual for a hearing pursuant to the Arkansas Administrative Procedures Act.
- I.** In compliance with Act 1393 of 2003, whenever a criminal background check is performed on a person under the provisions of the criminal background check requirement contained in the Arkansas Code for

licensure, the person may be disqualified for licensure if it is determined that the person committed a violation of any sexual offense formerly proscribed under ACA §§ 5-14-101 through 5-14-127 that is substantially equivalent to any sexual offense presently listed in Arkansas Code §§ 5-14-101 through 5-14-127 and is an offense screened for in a criminal background check.

SECTION VI TEMPORARY PERMITS

A. ENDORSEMENT AND EXAM APPLICANTS

1. ASBN shall be authorized to issue a temporary permit for a period not exceeding six months. This temporary permit shall be issued only to those applicants who meet all other qualifications for licensure by the ASBN, and upon whom results of the Arkansas State Police criminal background check have been received showing no violations listed in ACA §17-87-312.
2. The temporary permit shall immediately become invalid upon receipt of information obtained from the federal criminal background check indicating any offense listed in ACA §17-87-312 or upon notification to the applicant or ASBN of results on the first licensure examination he or she is eligible to take after the permit is issued.
3. Falsification of the applicant's criminal record history shall be grounds for disciplinary action by the Board.

B. FEES AND APPLICATIONS

1. The temporary permit fee shall be submitted with the application.
2. The fee is not refundable.

SECTION VII CONTINUING EDUCATION

Each person holding an active license or applying for reinstatement of a license under the provisions of the Nurse Practice Act shall be required to complete certain continuing education requirements prior to licensure renewal or reinstatement.

A. DECLARATION OF COMPLIANCE

Each nurse shall declare his/her compliance with the requirements for continuing education at the time of license renewal or reinstatement. The declaration shall be made on the form supplied by the Board.

B. AUDITS OF LICENSEES

1. The Board shall perform random audits of licensees for compliance with the continuing education requirement.
2. If audited, the licensee shall prove participation in the required

continuing education during the 24-months immediately preceding the renewal date by presenting photocopies of original certificates of completion to the Board.

3. The licensee shall provide evidence of continuing education requirements within thirty (30) calendar days from the mailing date of the audit notification letter sent from the Board to the last known address of the licensee.

C. CONTINUING EDUCATION REQUIREMENT STANDARDS

1. Standards for Renewal of Active Licensure Status
Licensees who hold an active nursing license shall document completion of one of the following during each renewal period:
 - a. Fifteen (15) practice focused contact hours from a nationally recognized or state continuing education approval body recognized by the ASBN; or
 - b. Certification or re-certification during the renewal period by a national certifying body recognized by the ASBN; or
 - c. An academic course in nursing or related field; and
 - d. Provide other evidence as requested by the Board.
2. Standards for Nurses on Inactive Status
Nurses who have their license placed on inactive status have no requirements for continuing education.
3. Standards for Reinstatement of Active Licensure Status
 - a. Nurses reinstating a nursing license to active status after five years or less shall document completion of the following within the past two (2) years:
 - i) Twenty (20) practice focused contact hours within the past two years from a nationally recognized or state continuing education approval body recognized by the ASBN, or
 - ii) Certification or re-certification by a national certifying body recognized by the ASBN; or
 - iii) An academic course in nursing or related field; and/or
 - iv) Provide other evidence as requested by the Board.
 - b. Nurses reinstating a nursing license to active status after greater than five years shall document completion of the following within the past two (2) years:
 - i) Twenty (20) practice focused contact hours within the past two years from a nationally recognized or state continuing education approval body recognized by the Arkansas State Board of Nursing, or
 - ii) Certification or re-certification by a national certifying body recognized by the ASBN; or
 - iii) An academic course in nursing or related field; and
 - iv) A refresher course approved by the ASBN; or
 - v) An employer competency orientation program, and
 - vi) Provide other evidence as requested by the Board.
4. The Board may issue a temporary permit to a nurse during the time enrolled in a Board-approved nursing refresher course or an employer competency orientation program upon submission

of an application, fees and verification of enrollment in such program.

5. Continuing education hours beyond the required contact hours shall not be “carried over” to the next renewal period.

D. RESPONSIBILITIES OF THE INDIVIDUAL LICENSEE

1. It shall be the responsibility of each licensee to select and participate in those continuing activities that will meet the criteria for acceptable continuing education as specified in A.C.A. §17-87-207 and these regulations.
2. It shall be the licensee’s responsibility to maintain records of continuing education as well as documented proof such as original certificates of attendance, contact hour certificates, academic transcripts or grade slips and to submit copies of this evidence when requested by the Board.
3. Records shall be maintained by the licensee for a minimum of two consecutive renewal periods or four years.

E. RECOGNITION OF PROVIDERS

1. The Board shall identify organizations, agencies, and groups that shall be recognized as valid approval bodies/providers of nursing continuing education. The recognition may include providers approved by national organizations and state agencies with comparable standards.
2. The Board shall work with professional organizations, approved nursing schools, and other providers of continuing educational programs to ensure that continuing education activities are available to nurses in Arkansas.

F. ACTIVITIES ACCEPTABLE FOR CONTINUING EDUCATION

1. Activities presented by recognized providers which may be acceptable include: national/ regional educational conferences, classroom instruction, individualized instruction (home study/programmed instruction), academic courses, and institutional based instruction; and
2. The educational activity shall be at least one contact hour in length.
3. The content shall be relevant to nursing practice and provide for professional growth of the licensee.
4. If participation is in an academic course or other program in which grades are given, a grade equivalent to “C” or better shall be required, or “pass” on a pass/fail grading system. An academic course may also be taken as “audit”, provided that class attendance is verified by the instructor.

G. ACTIVITIES WHICH ARE NOT ACCEPTABLE AS CONTINUING EDUCATION

1. Inservice programs. Activities intended to assist the nurse to acquire, maintain, and/or increase the competence in fulfilling the assigned responsibilities specific to the expectations of the employer.
2. Refresher courses. Programs designed to update basic general knowledge and clinical practice, which consist of a didactic and clinical component to ensure entry level competencies into nursing practice.
3. Orientation programs. A program by which new staff are introduced to the philosophy, goals, policies, procedures, role expectations, physical facilities and special services in a specific work setting. Orientation is provided at the time of employment and at other times when changes in roles and responsibilities occur in a specific work setting.
4. Courses designed for lay people.

H. INDIVIDUAL REVIEW OF A CONTINUING EDUCATION ACTIVITY PROVIDED BY A NON-RECOGNIZED AGENCY/ORGANIZATION

1. A licensee may request an individual review by:
 - a. Submitting an "Application for Individual Review".
 - b. Paying a fee.
2. Approval of a non-recognized continuing educational activity shall be limited to the specific event under consideration.

I. FAILURE TO COMPLY

1. Any licensee who fails to complete continuing education or who falsely certifies completion of continuing education shall be subject to disciplinary action, non-renewal of the nurse's license, or both, pursuant to A.C.A. §17-87-207 and A.C.A §17-87-309(a)(1) and (a)(6).
2. If the Board determines that a licensee has failed to comply with continuing education requirements, the licensee will:
 - a. Be allowed to meet continuing education requirements within ninety(90) days of notification of non-compliance.
 - b. Be assessed a late fee for each contact hour that requirements are not met after the ninety (90) day grace period and be issued a Letter of Reprimand. Failure to pay the fee may result in further disciplinary action.

SECTION VIII RENEWALS

A. Each person licensed under the provisions of the Nurse Practice Act shall renew biennially.

1. Thirty (30) days prior to the expiration date, the Board shall mail a renewal application to the last known address of each nurse to

- whom a license was issued or renewed during the current period.
2. The application shall be completed before the license renewal is processed.
 3. The fee for renewal shall accompany the application.
 4. The fee is not refundable.
 5. Pursuant to Act 996 of 2003 and upon written request and submission of appropriate documentation, members of the Armed Forces of the United States who are Arkansas residents and are ordered to active duty to a duty station located outside of this state shall be allowed an extension without penalty or assessment of a late fee for renewing the service members nursing license. The extension shall be effective for the period that the service member is serving on active duty at a duty station located outside of this state and for a period not to exceed six months after the service member returns to the state.

B. LAPSED LICENSE

1. The license is lapsed if not renewed or placed in inactive status by the expiration date.
2. Failure to receive the renewal notice at the last address of record in the Board office shall not relieve the licensee of the responsibility for renewing the license by the expiration date.
3. Any licensee whose license has lapsed shall file a renewal application and pay the current renewal fee and the reinstatement fee.
4. Any person practicing nursing during the time his or her license has lapsed shall be considered an illegal practitioner and shall be subject to the penalties provided for violation of the Nurse Practice Act.

C. INACTIVE STATUS

1. Any licensee in good standing, who desires to retire temporarily from the practice of nursing in this state, shall submit a request in writing and the current license shall be placed on inactive status from the date of expiration.
2. While inactive, the licensee shall not practice nursing nor be subject to the payment of renewal fees.
3. When the licensee desires to resume practice, he or she shall request a renewal application, which shall be completed and submitted with a reinstatement fee and the renewal fee and must meet those requirements outlined in Section VII.
4. When disciplinary proceedings have been initiated against an inactive licensee, the license shall not be reinstated until the proceedings have been completed.

D. RETIRED NURSE

1. Any licensee in good standing, who desires to retire for any length

of time from the practice of nursing in this state, shall submit a request in writing, surrender the current license, and pay the required fee and the current license shall be placed on inactive status and a retired license issued.

2. A retired license shall be renewed biennially following submission of a renewal application and fee.
 3. Fees are non-refundable.
 4. While retired, the licensee shall not practice nursing, however:
 - a. A registered nurse with a retired license may use the title "Registered Nurse", or the abbreviation "RN"; and
 - b. A practical nurse with a retired license may use the title "Licensed Practice Nurse", or the abbreviation "LPN"; and
 - c. A psychiatric technician nurse with a retired license may use the title "Licensed Psychiatric Technician Nurse", or the abbreviation "LPTN".
 5. When the licensee desires to resume practice, he or she shall request a renewal application, which shall be completed and submitted with a reinstatement fee and the active renewal fee. The licensee must also meet those requirements outlined in Section VII.
 6. If the retired license is allowed to lapse, the licensee shall not hold himself or herself out as an RN, LPN or LPTN and shall pay a reinstatement fee in addition to the fee required for renewal of the retired license.
 7. When disciplinary proceedings have been initiated against a retired licensee, the license shall not be reinstated until the proceedings have been completed.
- E. The licensee may be required to submit to a state and federal criminal background check if the Board deems it necessary

SECTION IX DUPLICATE LICENSE

- A. A duplicate license or certificate shall be issued when the licensee submits a notarized statement to the Board that the document is lost, stolen, or destroyed, and pays the required fee.
- B. The license will be marked "duplicate".

SECTION X CERTIFICATION/VERIFICATION TO ANOTHER JURISDICTION

Upon payment of a certification/verification fee, a nurse seeking licensure in another state may have a certified statement of Arkansas licensure issued to the Board of Nursing in that state.

SECTION XI NAME OR ADDRESS CHANGE

- A.** A licensee, whose name is legally changed, shall be issued a replacement license following submission of the current license, along with a notarized statement, copy of marriage license or court action, and the required fee.
- B.** A licensee, whose address changes from the address appearing on the current license, shall immediately notify the Board in writing of the change.

Effective August 1, 2003

CHAPTER SEVEN RULES OF PROCEDURE

SECTION I RULES UNDER THE NURSE PRACTICE ACT AND NOTICE – HEARING

A. RULES UNDER THE NURSE PRACTICE ACT

This exposition of the Rules of Procedure formulated under the Administrative Procedure Act, as amended, ACA §25-15-201 et seq, does not effect a repeal of the provisions of the nurse practice act, its amendments and related laws, except insofar as these Rules of Procedure were formulated under provisions of law which specifically contravenes provisions of the nurse practice act, its amendments and related laws.

B. NOTICE – HEARING

Any such rule shall be made or amended only after a hearing upon notice as set forth in these Rules of Procedure.

SECTION II PRIOR RULES

PRIOR RULES – VALID

Rules of the Board formulated previously are declared to be still in force until amended and certified to the *Arkansas Register*.

SECTION III RULE MAKING

In any case of rule-making, every person has a right to seek to cause the Board to act to make a rule. Every person also has the right to seek to cause an incorrect rule to be corrected.

SECTION IV VIOLATION OF RULES

- A.** Willful violation of any rule of the Board, in addition to any other penalty provided by law, shall subject the violator to such denial, suspension or revocation of approval of a nursing program or license to practice nursing as may be applicable.
- B.** The ASBN may require state and federal criminal background checks of any licensee for cause.

SECTION V ORDER

A. ORDER – EFFECTIVE ONLY IN WRITING

Orders of the Board shall be effective only when in writing.

B. EFFECTIVE DATE

Each order shall contain its effective date and shall concisely state:

1. Its intent or purpose;
2. The grounds on which it is based;
3. The pertinent provision of law.

C. ORDER MAY BE EFFECTUATED

An order may be given by service upon or delivery to the person ordered by mail, postage prepaid, addressed to the person at his principal place of business or his home as last of record with the Board.

An order may also be served by any officer authorized to serve legal process or by any member of the Board or any employee of the Board.

An attempt to serve notice at the last address of record in the Board office shall constitute official notice.

D. ORDER FORMULATED UPON ADJUDICATION

There shall be an order formulated upon each adjudication made by the Board or its hearing officer.

SECTION VI DECLARATORY ORDER – RULES

A. DECLARATORY ORDER – PETITION FOR

Any person who alleges a rule, or its possible application, may injure or threaten to injure him, his business or property may file a petition for a declaratory order as to the applicability of any rule to be enforced by the Board.

B. PROMPT DISPOSITION

Such petition shall be promptly considered and a prompt disposition shall be made.

C. STATUS

Declaratory orders shall have the same status as agency orders formulated upon adjudication.

**SECTION VII
DECLARATORY ORDER – STATUTES AND ORDERS**

Applicability of statutes or department orders as to any person may be determined in the same manner by declaratory orders.

**SECTION VIII
ADJUDICATION**

A. REASONABLE NOTICE

All parties shall be afforded opportunity for hearing after reasonable notice. (See Section XI, subsection B.3. *infra*.)

B. EVIDENCE MAY BE PRESENTED

Opportunity shall be afforded all people interested in the action to respond and present evidence and argument on all issues involved.

C. STIPULATION/SETTLEMENT/CONSENT OR DEFAULT NOT PROHIBITED

Nothing in these rules shall prohibit informal disposition by stipulation, settlement, consent order or default.

D. RECORD

The record shall include:

1. All pleadings, motions and intermediate rulings;
2. All evidence received or considered, including on request of any party a transcript of all proceedings or any part;
3. A statement of matters officially noticed;
4. Offers of proof, objections and rulings;
5. Proposed findings and exceptions;
6. All staff memoranda or data submitted to the hearing officer in connection with any staff consideration of the matter.

E. FINDINGS OF FACT

Findings of fact shall be based exclusively on the evidence received and on matters officially noticed.

**SECTION IX
ADJUDICATION – DECISIONS**

A. FINAL DECISION

In every case of adjudication there shall be a final decision, or order, which shall be in writing or stated in the record.

1. The final decision shall include findings of fact and conclusions of law each separately stated.
2. The findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying

evidence supporting the findings.

3. If any party submitted proposed findings of fact, the decision shall include a ruling upon each proposed finding.

B. SERVICE OF COPY – DECISION

Parties shall be served either personally or by mail with a copy of any decision or order.

C. EXEMPTION

Where a formal hearing before a hearing officer has been held at which the parties were given proper notice, and at which opportunity was offered to them to be present in person and by counsel to present testimony, briefs, and argument, a proposal for decision will not be required.

**SECTION X
HEARING OFFICER**

Where convenient and appropriate, a hearing officer may be appointed to take testimony and prepare the record for the consideration of the Board. The hearing officer may conduct hearings at any place within the State of Arkansas. In the conduct of such hearings, the hearing officer shall preside and have the power and duties of a presiding official as set forth in Section X.D. The decision on the record made by the hearing officer shall be made by a majority of the members of the Board.

A. HEARINGS

In every case of adjudication, and in cases of rule making where rules are to be made after hearing, there shall be a hearing.

B. RIGHT OF COUNSEL

Any person compelled to appear before the Board or a hearing officer shall have the right to counsel.

C. IMPARTIALITY

Every member of the Board present shall conduct her/himself in an impartial manner and the presiding official may withdraw if she/he deems her/himself disqualified. Any party may file an affidavit of personal bias or disqualification which shall be ruled upon by the Board and granted if it is timely, sufficient, and filed in good faith.

D. POWER AND DUTIES OF PRESIDING OFFICIAL

The presiding officer of the hearing shall have power to:

1. Administer oaths and affirmations;
2. Maintain order;
3. Rule on all questions arising during the course of the hearing;
4. Hold conferences for the settlement or simplification of the issues;
5. Make or recommend decisions;

6. Generally, to regulate and guide the course of the proceedings.

E. BURDEN OF PROOF

The proponent of a rule or order shall have the burden of proof.

F. EVIDENCE EXCLUDED

Irrelevant, immaterial and unduly repetitious evidence shall be excluded.

G. EVIDENCE ADMITTED

Any other evidence, oral or documentary, not privileged, may be received if it is of a type commonly relied upon by reasonably prudent person in the conduct of their affairs.

H. OBJECTIONS

Objections to evidence may be made and shall be noted of record.

I. EVIDENCE MAY BE WRITTEN – WHEN

When a hearing can be so expedited (and the interests of the parties will not be prejudiced) any part of the evidence may be received in written form.

J. CROSS-EXAMINATION

Parties shall have the right to conduct such cross-examination as may be required for a full, true disclosure of the facts.

K. OFFICIAL NOTICE

Official notice may be taken of judicially cognizable facts and of generally recognized technical or scientific facts peculiarly within the Board's specialized knowledge.

1. Parties shall be notified of material so noticed (including any staff memoranda or data).
2. Parties shall be afforded a reasonable opportunity to show the contrary.

SECTION XI

**PROCEDURE ON DENIAL, REPRIMAND, PROBATION,
CIVIL PENALTIES, SUSPENSION, OR REVOCATION**

A. GROUNDS FOR DISCIPLINE

- (a) The Board shall have sole authority to deny, suspend, revoke or limit any license to practice nursing or certificate of prescriptive authority issued by the Board or applied for in accordance with the provisions of this chapter, or to otherwise discipline a licensee upon proof that the person:
 1. Is guilty of fraud or deceit in procuring or attempting to procure a license to practice nursing or engaged in the practice of nursing without a valid license;

2. Is guilty of crime or gross immorality;
 3. Is unfit or incompetent by reason of negligence, habits or other causes;
 4. Is habitually intemperate or is addicted to the use of habit-forming drugs;
 5. Is mentally incompetent;
 6. Is guilty of unprofessional conduct;
 7. Has had a license, certificate or registration revoked, suspended or placed on probation or under disciplinary order in any jurisdiction;
 8. Has voluntarily surrendered a license, certification or registration and has not been reinstated in any jurisdiction; or
 9. Has willfully or repeatedly violated any of the provisions of this chapter.
- (b) The board shall refuse to issue or shall revoke the license of any person who is found guilty of or pleads guilty or nolo contendere to any offense listed in §17-87-312(f) unless the person requests and the board grants a waiver pursuant to §17-87-312(h).
- (c) Proceedings under this section shall be as provided in the Arkansas Administrative Procedure Act, as amended, § 25-15-201 et seq.

B. PROCEEDINGS

Proceedings shall be as follows.

1. Opportunity for licensee or applicant to have hearing.
Except as provided in subsection 2 below, every licensee or applicant for a license shall be afforded notice and an opportunity to be heard before the Board. The Board shall have authority to take any action the effect of which would be to:
 - a. Deny permission to take an examination for licensing for which application has been duly made;
 - b. Deny a license after examination for any cause other than failure to pass an examination;
 - c. Withhold the renewal or reinstatement of a license for any cause;
 - d. Revoke a license;
 - e. Suspend a license;
 - f. Probate a license;
 - g. Reprimand a licensee;
 - h. Levy civil penalties.
2. Suspension of license without prior notice or hearing. If the Board finds that the continued practice by a licensee of the occupation or profession for which he/she is licensed will create an immediate hazard to the public, the Board may suspend the license pending a hearing without prior notice of hearing.
3. Notice of action or contemplated action by the Board—Request for Hearing—Notice of Hearing.

- a. When the Board contemplates taking any action of a type specified in paragraphs a. and b. of subsection B.1. supra, it shall give written notice to the applicant at the last address of record in the Board office, including a statement:
 - (1) That the applicant has failed to satisfy the Board of his or her qualifications to be examined or to be licensed, as the case may be;
 - (2) Indicating in what respects the applicant has failed to satisfy the Board; and
 - (3) That the applicant may secure a hearing before the Board by depositing in the mail, within 20 days after service of said notice, a registered letter addressed to the Board containing a request for a hearing.
 1. In any proceeding of the Board involving the denial of a duly made application to take an examination, or refusal to issue a license after an applicant has taken and passed an examination, the burden of satisfying the Board of the applicant's qualifications shall be upon the applicant.
 2. When the Board contemplates taking any action of a type specified in subsections c, d, and e of subsection B.1. supra, it shall give a written notice to the licensee at the last address of record in the Board office, through the Board's attorney, which contains a statement:
 - (1) That the Board has sufficient evidence which, if not rebutted or explained, will justify the Board in taking the contemplated action;
 - (2) Indicating the general nature of the evidence, and detailed allegations of violation of ACA §17-87-309(a)(1-9) the licensee is charged with;
 - (3) That a hearing will be held on a date certain, no sooner than 20 days after the mailing of the notice to the last address of record in the Board office; and at that hearing the Board will receive evidence.
 3. When the Board shall summarily suspend a license pending a hearing, as authorized in subsection B.2 supra, it shall give written notice of the general nature of the evidence and detailed allegations of violation of ACA §17-87-309(a)(1-9) the licensee is charged with:
 - (1) That the Board has sufficient evidence which, if not rebutted or explained, will justify revocation of the license by the Board;
 - (2) Indicating the general nature of the evidence against the licensee;
 - (3) That, based on the evidence indicated, the Board has determined that the continuation of practice of the occupation or profession of the licensee will create an immediate hazard to the public and has therefore

suspended the license of the licensee effective as of the date such notice is served;

(4)The Board will then set an immediate hearing for a full evidentiary presentation by the licensee and the Board.

4. In any hearing before the Board involving the suspension or revocation of a license, the burden shall be on the Board to present competent evidence to justify the action taken or proposed by the Board.

C. CIVIL PENALTIES

The Board may, after providing notice and a hearing, levy civil penalties in an amount not to exceed one thousand dollars (\$1,000.00) for each violation against those individuals or entities found to be in violation of this Chapter or regulations promulgated thereunder.

1. Each day of violation shall be a separate offense.
2. These penalties shall be in addition to other penalties which may be imposed by the Board pursuant to this Chapter.
3. Unless the penalty assessed under this subsection is paid within fifteen (15) calendar days following the date for an appeal from the order, the Board shall have the power to file suit in the Circuit Court of Pulaski County to obtain a judgment for the amount of penalty not paid.

D. ENCUMBRANCE OR SUSPENSION OF DEA REGISTRATION

The APN shall submit his/her DEA Registration to the Board upon request following disciplinary hearing in which the registration is encumbered or suspended.

E. METHOD OF SERVING NOTICE OF HEARING

Any notice required by subsection B.3, above, may be served either personally or by an officer authorized by law to serve process, or by registered mail or certified mail with return receipt requested, directed to the licensee or applicant at his or her last known address as shown by the records of the Board. If notice is served personally, it shall be deemed to have been served at the time when the officer delivers the notice to the person addressed. Where notice is served by registered mail, it shall be deemed to have been served on the date borne by the return receipt showing delivery of the notice to the addressee or refusal of the addressee to accept the notice. An attempt to serve notice at the last address of record shall constitute official notice.

F. VENUE OF HEARING

Board hearings held under the provisions of this rule shall be conducted at the Board office or elsewhere in Pulaski County.

G. HEARINGS PUBLIC

Use of Hearing Office – All hearings under this section shall be open to the public.

At all such hearings at least a quorum of the Board shall be present to hear and determine the matter.

H. RIGHTS OF PERSONS ENTITLED TO HEARING

A person entitled to be heard pursuant to this section shall have the right to:

1. Be represented by counsel;
2. Present all relevant evidence by means of witnesses and books, papers and documents;
3. Examine all opposing witnesses on any matter relevant to the issues;
4. Have subpoenas and subpoenas duces tecum issued to compel the attendance of witnesses and the production of relevant books, papers and documents upon making written request therefor to the Board; and
5. Have a transcript of the hearing made at his or her own expense as provided in Section VIII.D. hereof.

I. POWERS OF THE BOARD IN CONNECTION WITH HEARING

In connection with any hearing held pursuant to the provisions of this section, the Board or its hearing officer shall have power to:

1. Have counsel to develop the case;
2. Administer oaths or affirmations to witnesses called to testify;
3. Take testimony;
4. Examine witnesses;
5. Have a transcript of the hearing made at the expense of the Board; and
6. Direct a continuance of any case.

J. RULES OF EVIDENCE

In proceedings held pursuant to this rule, the Board may admit any evidence and may give probative effect to evidence that is of a kind commonly relied on by reasonably prudent men in the conduct

of serious affairs. The Board may in their discretion exclude incompetent, irrelevant, immaterial and unduly repetitious evidence.

K. FEES – WITNESSES

Witness fees and mileage, if claimed, shall be allowed the same as for testimony in a Circuit Court.

L. MANNER AND TIME OF RENDERING DECISION

After a hearing has been completed, the members of the Board shall proceed to consider the case and as soon as practicable shall render their decision. If the hearing was conducted by a hearing officer, the decision shall be rendered by the Board at a meeting where a quorum of the members of the Board are present and participating in the decision. In any case the decision must be rendered within ninety (90)

days after the hearing.

M. SERVICE OF WRITTEN DECISION

Within a reasonable time after the decision is rendered, the Board shall serve upon the person whose license is involved a written copy of the decision, either personally or by registered mail to the last address of record in the Board office. If the decision is sent by registered mail, it shall be deemed to have been served on the date borne on the return receipt.

N. PROCEDURE WHERE PERSON FAILS TO REQUEST OR APPEAR FOR HEARING—REOPENING HEARING

If a person duly notified fails to appear for a disciplinary hearing and no continuance has been granted, the Board, or its hearing officer, shall hear the evidence of such witnesses as may have appeared, and the Board shall proceed to consider the matter and dispose of it on the basis of the evidence before it in the manner required by subsection L. of Section XI. Failure of the licensee to keep the Board informed of a change of address shall not be grounds to have the hearing reopened.

Where because of accident, sickness, or other cause a person fails to appear for a hearing which has been scheduled by the Board, the person may, within a reasonable time, apply to the Board to reopen the proceeding; and the Board, upon finding such cause sufficient, shall immediately fix a time and place for hearing, and give such person notice thereof as required by Sections XI.B.3. and XI.E. At the time and place fixed, a hearing shall be held in the same manner as would have been employed if the person had appeared in response to the original notice of hearing.

O. CONTENTS OF DECISION

The decision of the Board shall contain:

1. Findings of fact made by the Board;
2. Conclusions of law reached by the Board;
3. The order of the Board based upon these findings of fact and conclusions of law; and
4. A statement informing the person whose license is involved of his right to request a judicial review and the time within which such request must be made.

P. JUDICIAL REVIEW

Judicial review of proceedings under this rule shall be set out in Section XII.

**SECTION XII
JUDICIAL REVIEW**

A. JUDICIAL REVIEW – RULE MAKING

1. DECLARATORY JUDGMENT

The validity or applicability of a rule may be determined in an action of declaratory judgment if it is alleged that the rule (or its threatened application) injures or threatens to injure the plaintiff.

2. VENUE – CIRCUIT COURTS

An application for declaratory judgment may be brought in the circuit court of Pulaski County.

3. BOARD NAMED DEFENDANT

The Board shall be named defendant.

4. DECLARATORY JUDGMENT AVAILABLE

A declaratory judgment may be sought and rendered whether or not the plaintiff requested the Board to act upon the validity or applicability of the questioned rule.

B. JUDICIAL REVIEW - FAILURE TO ACT

RULE MAKING

If the Board shall unlawfully, unreasonably, or capriciously fail, refuse, or delay to act in respect to rule-making, any person may sue for an order commanding the Board to act.

VENUE – CHANCERY COURTS

The suit may be brought in the chancery court of Pulaski County.

C. JUDICIAL REVIEW – FAILURE TO ACT IN ADJUDICATION

Any person who considers himself injured by a failure to act in a case of adjudication has the same judicial review as in a matter of failure to act pertaining to rule-making.

VENUE – CHANCERY COURTS

The plaintiff may bring suit for an order commanding the Board to act. The suit shall be in the Pulaski Chancery Court.

D. JUDICIAL REVIEW – ADJUDICATION

In cases of adjudication, any person who considers himself injured in his person, business or property by final Board action shall be entitled to judicial review.

1. OTHER REVIEW – NOT EXTINGUISHED

Nothing in this section shall be construed to limit other means of review provided by law.

2. VENUE – CIRCUIT COURTS

Proceedings for review may be instituted by filing a petition in the circuit court of Pulaski County or the county in which the person resides.

3. TIME

The petition shall be filed within thirty days after service of the

- Board's final decision of the adjudication upon petitioner.
4. **SERVICE**
Service shall be had by serving a copy of the petition upon the Board and all other parties of record either by personal service or by mail.
 5. **INTERVENORS**
The court may permit other interested parties to intervene.
 6. **STAY OF ORDER**
Filing of the petition shall not automatically stay enforcement of the Board decision. The Board, upon its own action, or the reviewing court may stay the order upon such terms as may be just.
 7. **RESPONSE**
Response shall be made within thirty (30) days after service of the petition, or within such time as the court may allow, but not exceeding a total of ninety (90) days.
 8. **BOARD SHALL TRANSMIT RECORD TO COURT**
The Board shall transmit the record to the reviewing Court.
 - a. The record shall be either the original or a certified copy of the entire record.
 - b. By stipulation of all parties to the review, the record may be shortened.
 - c. The court may require or permit subsequent corrections or additions to the record.
 9. **ADDITIONAL EVIDENCE**
Additional evidence may be had if, before the date for hearing, application is made to the Court for leave to present additional evidence.
 - a. Must obtain leave of court.
 - b. Evidence must be material.
 - c. Must show a good reason for failure to present the evidence.
 - d. The court may set such conditions as may be just.
 - e. The Board may modify its findings and decisions by reason of the additional evidence. If so, that evidence and any modifications, new findings, or decisions shall be filed with the reviewing court.
 10. **REVIEW BY COURT WITHOUT JURY**
The review shall be conducted by the court without jury and shall be confined to the record.
EXCEPTION:
 - a. In cases of alleged irregularities in procedure before the Board (not shown in the record) testimony may be taken before the Court.
 - b. Upon request, the court shall hear oral arguments and receive written briefs.
 11. **RULING OF REVIEWING COURT**
The reviewing court may affirm the decision of the Board, or it may remand the case for further proceedings. It also may reverse

or modify the decision if substantive rights of the petitioner have been prejudiced because the administrative findings, inferences, conclusions or decisions are:

- a. In violation of constitutional or statutory provisions;
- b. In excess of the Board's statutory authority;
- c. Made upon unlawful procedure;
- d. Affected by other error of law;
- e. Not supported by substantial evidence of record, or, if it is arbitrary, capricious, or characterized by abuse of discretion.

E. JUDICIAL REVIEW – DISCIPLINARY PROCEEDINGS

In cases of disciplinary proceedings any respondent shall be entitled to judicial review of the final Board action.

1. VENUE – CIRCUIT COURT

Proceedings for review may be instituted by filing a petition in the Circuit Court of Pulaski County or the county in which the person resides.

2. TIME

The petition shall be filed within thirty (30) days after service of the Board's final decision of the adjudication upon petitioner.

3. SERVICE

Service shall be had by serving a copy of the petition upon the president or the secretary of the Board.

4. STAY OF ORDER

Filing of the petition shall not automatically stay enforcement of the Board decision. The Board, upon its own action, or the reviewing court may stay the decision or order upon such terms as may be just.

5. RESPONSE

Response shall be made within thirty (30) days after service of petition, or within such time as the court may allow, but not exceeding a total of ninety (90) days.

6. THE BOARD SHALL TRANSMIT RECORD TO COURT

The Board shall transmit the record to the reviewing court.

- a. The record shall be either the original or a certified copy of the entire record.
- b. By stipulation of all parties to the review, the record may be shortened.
- c. The court may require or permit subsequent corrections or additions to the record.

7. ADDITIONAL EVIDENCE

Additional evidence may be had if, before the date for hearing, application is made to the court for leave to present additional evidence.

- a. Must obtain leave of court.
 - b. Evidence must be material.
 - c. Must show a good reason for failure to present the evidence.
 - d. The court may set such conditions as may be just.
 - e. The Board may modify its findings and decisions by reason of the additional evidence. If so, that evidence and any modifications, new findings, or decisions shall be filed with the reviewing court.
8. REVIEW BY COURT WITHOUT JURY
- The review shall be conducted by the court without a jury and shall be confined to the record.
- a. EXCEPTION
In cases of alleged irregularities in procedure before the Board (not shown in the record) testimony may be taken before the court.
 - b. Upon request, the court shall hear oral argument and receive written briefs.
9. RULING OF REVIEWING COURT
- The reviewing court may affirm the decision of the Board, or it may remand the case for further proceedings. It also may reverse or modify the decision if substantive rights of the petitioner have been prejudiced because the administrative findings, inferences, conclusions or decisions are:
- a. In violation of constitutional or statutory provisions;
 - b. In excess of the Board's statutory authority;
 - c. Made upon unlawful procedure;
 - d. Affected by other error of law;
 - e. Not supported by substantial evidence of record, or if it is arbitrary, capricious, or characterized by abuse of discretion.

SECTION XIII APPEALS TO THE SUPREME COURT OF ARKANSAS

Appeals to the Arkansas Supreme Court from any final action of a chancery or circuit court shall follow the procedure prescribed by law.

SECTION XIV ENFORCEMENT

A. CIVIL ACTION

The Board may institute such civil suits or other legal proceedings as may be required for enforcement of any provisions of ACA §17-87-101 through 17-87-401 (Nurse Practice Act), as amended, and related acts.

B. CRIMINAL ACTION

If the Board has reason to believe that any person has violated any provisions of the Nurse Practice Act, as amended, or related acts for

which criminal prosecution would be in order, it shall so inform the prosecuting attorney in whose district any such purported violation may have occurred.

SECTION XV DISCIPLINARY PROCEEDINGS

A. DEFINITIONS

1. The term "fraud and deceit" shall include but not be limited to:
 - a. False representation of facts on an application for licensure by examination or licensure by endorsement without examination or on application for renewal of license;
 - b. False representation by having another person in his/her place for the licensing examination or any part thereof;
 - c. Forged or altered documents or credentials as required for the application for original license, application for renewal of license, or application for certificate of prescriptive authority;
 - d. Disclosing the contents of the licensing examination or soliciting, accepting or compiling information regarding the examination before, during or after its administration;
 - e. Aiding, abetting, assisting or hiring an individual to violate or circumvent any law or duly promulgated rules and regulations intended to guide the conduct of a nurse or other health care provider;
 - f. Prescribing any drug, medicine, or therapeutic device unless certified by the Board as having prescriptive authority.
 - g. Engaging in the practice of nursing without a valid license.
2. The term "gross immorality" shall include but not be limited to acts and conduct inconsistent with the rules and principles of morality which relate to the practice of nursing and the responsibilities of the licensee.
3. The term "negligence" means the failure to do some act of nursing which a licensee should do, guided by those ordinary considerations which regulate the practice of nursing; or the doing of something which a reasonable and prudent licensee would not do under the same or similar facts and circumstances in the practice of nursing.
The term "gross negligence" is an exercise of such minimal care as to justify the belief that there was a conscious disregard or indifference for the health, safety, or welfare of the patient or the public and shall be considered a substantial departure from the accepted standard of care.
The term "other causes" shall include but not be limited to the inability to practice nursing because of physical and/or psychological impairment.
4. The term "habitually intemperate or addicted" shall include but not be limited to the use of hallucinogenics, stimulants, depressants or intoxicants which could result in behavior that interferes with the

practice of nursing.

5. The term "mental incompetence" shall include those situations where a court has adjudged a licensee as incompetent.
6. The term "unprofessional conduct" which, in the opinion of the Board, is likely to deceive, defraud, or injure patients or the public, means any act, practice, or omission that fails to conform to the accepted standards of the nursing profession and which results from conscious disregard for the health and welfare of the public and of the patient under the nurse's care; and includes, but is not limited to, the conduct listed below:
 - a. Failing to assess and evaluate a patient's status or failing to institute nursing intervention which might be required to stabilize a patient's condition or prevent complications.
 - b. Knowingly or consistently failing to accurately or intelligibly report or document a patient's symptoms, responses, progress, medications, and/or treatments.
 - c. Knowingly or consistently failing to make entries, destroying entries, and/or making false entries in records pertaining to the giving of narcotics, drugs, or nursing care.
 - d. Unlawfully appropriating medications, supplies, equipment, or personal items of the patient or employer.
 - e. Failing to administer medications and/or treatments in a responsible manner.
 - f. Performing or attempting to perform nursing techniques and/or procedures in which the nurse is untrained by experience or education, and practicing without the required professional supervision.
 - g. Violating the confidentiality of information or knowledge concerning the patient except where required by law.
 - h. Causing suffering, permitting or allowing physical or emotional injury to the patient or failing to report the same in accordance with the incident reporting procedure in effect at the employing institution or agency.
 - i. Leaving a nursing assignment without notifying appropriate personnel.
 - j. Failing to report to the Board within a reasonable time of the occurrence, any violation or attempted violation of the Arkansas Nurse Practice Act or duly promulgated rules, regulations, or orders.
 - k. Delegating nursing care functions and/or responsibilities in violation of the Arkansas Nurse Practice Act and the Arkansas State Board of Nursing Rules and Regulations, Chapter 5.
 - l. Failing to supervise persons to whom nursing functions are delegated or assigned.
 - m. Practicing nursing when unfit to perform procedures and make decisions in accordance with the license held because of physical, psychological or mental impairment.
 - n. Failing to conform to the Universal Precautions for preventing the transmission of Human Immunodeficiency Virus and Hepatitis B Virus to patients during exposure prone invasive procedures.
 - o. Providing inaccurate or misleading information regarding employment history to an employer or the Arkansas State Board of

- Nursing.
- p. Failing a drug screen as requested by employer or Board.
 - q. Engaging in acts of dishonesty which relate to the practice of nursing.
 - r. Failure to display appropriate insignia to identify the nurse during times when the nurse is providing health care to the public.
 - s. Failure to repay loans to the Nursing Student Loan Fund as contracted with the Board of Nursing.
7. The term "has had a license, certificate or registration revoked, suspended or placed on probation or under disciplinary order" refers to actions in any jurisdiction;
8. The term "has voluntarily surrendered a license, certification or registration and has not been reinstated" refers to actions in any jurisdiction.
9. The term "willfully" shall include but not be limited to:
- a. Continuing action after notice by the Arkansas State Board of Nursing;
 - b. Disregarding the expiration date of the license;
 - c. Providing false, incorrect, or incomplete information to the employer regarding the status of the license;
 - d. Performing acts beyond the authorized scope of the level of nursing for which the individual is licensed, and practicing without required professional supervision;
 - e. Failing to follow the Nurse Practice Act of the State of Arkansas and its rules and regulations.

Effective August 1, 2003